

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JEFFREY CROSS, and PAMELA
CROSS,

Plaintiffs,

v.

EQUITYEXPERTS.ORG, LLC, d/b/a
EQUITY EEXPERTS,

Defendants.

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CIVIL ACTION NO.
1:17-CV-3804-AT

ORDER


This matter is before the Court on the Magistrate Judge’s Final Report and Recommendation (“R&R”) [Doc. 18] recommending that Plaintiff’s underlying motion for entry of default judgment [Doc. 12] be granted, in part, and denied, in part. *See Generally* R&R [Doc. 18]. While the Court’s normal practice would be to review the Magistrate’s Judge’s R&R *de novo* in conjunction with the parties’ objections, the procedural landscape here requires a different approach. Specifically, following the filing of the Magistrate Judge’s R&R and Defendants’ objections to the same, Defendants filed a motion requesting that the underlying default, upon which the R&R was based, be set aside. [Doc. 22]. Thus, it would be premature for the Court to rule on the viability of the R&R—which itself

adjudicates the propriety of Plaintiff's motion for entry of default judgment—without first adjudicating Defendant's motion to vacate.

Based upon the foregoing, the Court declines to adopt the R&R at this juncture [Doc. 18] in light of the fact that doing so would be premature given the pending motion to vacate the default. Thus, the Court takes no view on the substantive aspects of the R&R at this time but declines to adopt it solely on procedural grounds.

In conclusion, the Court: (1) **DENIES, WITHOUT PREJUDICE**, Plaintiff's motion for default judgment [Doc. 12] and (2) hereby refers this matter back to the assigned Magistrate Judge for decision on Defendant's motion to vacate the default. [Doc. 22]. Accordingly, the Clerk's Office is directed to terminate the pending R&R [Doc. 18] and refer Defendant's motion to vacate the default [Doc. 22] to the Magistrate Judge for decision. In the event the Magistrate Judge denies the motion to vacate, Plaintiff may refile its motion for entry of default judgment at that time.

It is **SO ORDERED** this 11th day of January, 2019.


AMY TOTENBERG
UNITED STATES DISTRICT JUDGE